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HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

CORAM : HON'BLE SHRI S.R. NAYAK, CJ.
HON'BLE SHRI V.K. SHRIVASTAVA, J.

M.A. (C.) No.120 of 2006

Appellants:

1. Smt. Asin Bai, aged 40 years, W/o Shri Tikaram Sahu, Occupation House wife.
2. Tikaram Sahu, aged 45 years, son of Shri Ram Lal Sahu.
3. Kumari Laxmi Sahu, aged 21 years, daughter of Tikaram Sahu

All are resident of Sunder Nagar Chowk, Danganiya Mod, Krishna Nagar, Raipur, District Raipur (C.G.).

CLAIMANTS,

- Versus -

Respondents :

1. Mahendra Singh, aged 38 years, Son of Moolchand Singh, resident of C/o Prakash Industries Ltd., Ring Road No.2, Gogaon, Raipur (C.G.)
2. V.K. Gupta, son of A.K. Gupta, Resident of Prakash Industries Ltd., Ring Road No.2, Gogaon, Raipur (C.G.).
3. The Oriental Insurance Company Ltd. Through Divisional Manager Divisional Office No.2, Chawla complex, Devendra Nagar, Raipur.

Present: Shri Praveen Tulsyan, counsel for the appellants.

ORAL ORDER

(08TH November, 2006.)

The following oral order of the Court was passed by S.R. Nayak, CJ. :

The claimants are the mother, father and unmarried sister of the deceased.

(2) What was urged before us by learned counsel for the appellants – claimants is that having regard to the age of the deceased the MACT is not justified in applying the multiplier of 15 for assessing the loss of dependency.

(3) It was next contended by learned counsel for the appellants – claimants that the deceased was earning monthly income of Rs.5,000/-, whereas the MACT has taken the monthly income of the deceased at Rs.3,000/- for assessing the loss of dependency. It was also contended by the learned counsel for the appellants that the compensation awarded under the conventional head is on lower side.

(4) Having heard learned counsel for the appellants, we do not find any substantive or weighty ground to interfere with the award passed by the MACT. The deceased was aged 20 years on the date of the accident and demise. On the date of the accident the age of the mother was 40 years and the age of the father was 45 years, and average age of the parents would come to 42.5 years. The MACT has applied multiplier 15 quite rightly having regard to the average age of the parents for assessing loss of dependency. Therefore, no exception could be taken to applying multiplier 15.

(5) It is true that in the oral evidence of the widow of the deceased, it was stated that the deceased was earning monthly income of Rs.5,000/- being a Supervisor in a transport company. That testimony would not come to the aid of the claimants to establish that the deceased was in fact earning monthly income of Rs.5,000/-. Admittedly, the claimants did not produce salary certificate, and they have also not examined the employer under whom the deceased was working. In the absence of any substantive legal evidence, the M.A.C.T. has

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taken monthly income of the deceased at Rs.3,000/- for the purpose of assessing loss of dependency.

(6) The claimants being mother, father and younger sister of the deceased what has been awarded under the conventional heads, in the facts and circumstances of the case, cannot be condemned as arbitrary or unreasonable. We are satisfied that the compensation awarded by the M.A.C.T., in the facts and circumstances of the case and evidence on record, is just and reasonable compensation contemplated under the M.V. Act. No ground is made out for interference.

(7) The appeal is devoid of merit and it is accordingly dismissed at the stage of admission itself without notice to the other side.

Sd/-
Chief Justice

Sd/-
V.K.Shrivastava
Judge

Raju